IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.MC.No. 1218 of 2007()

CC.54/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER: ACCUSED PERSONS 1 TO 5

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1. SURESH KUMAR, S/O.KRISHNAN NAIR,
   AGED 33 YEARS, RESIDING AT ROHINI NILAYAM,
   NEAR HEALATH CENTRE, PANGAPPARA,
   THIRUVANANTHAPURAM.

2. SATHEESH KUMAR, S/O.KRISHNAN NAIR,
   AGED 33 YEARS, RESIDING AT -DO- -DO-

3. JAGADAMMA, D/O.BHARATHIAMMA,
   RESIDING AT DO DO.

4. MOHANAN, S/O.GOVINDA PILLAI,
   RESIDING AT DO DO.

5. LATHAKUMARI, D/O.JAGADAMMA,
   RESIDING AT DO DO

BY ADV. SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.

RESPONDENTS: STATE AND DE-FACTO COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY ITS
   PUBLIC PROSECUTOR AT HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUNITHA KUMARI, D/O.KRISHNA PILLAI,
   AGED 26 YEARS, RESIDING AT KALLUVILA PUTHEN VEEDU
   PALLIPPURAM VILLAGE, THIRUVANANTHAPURAM.

R1 BY PUBLIC PROSECUTOR SRI. C.K. SURESH
R2 BY ADV. SMT.JAYALAKSHMI V.MOHAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1218 of 2007

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Dated this the 29th day of May, 2007

O R D E R

The first petitioner is the husband of the second respondent herein, and petitioners 2 to 5 are the relatives of the first petitioner, they being the parents, sister and brother-in-law of the first petitioner. The second respondent had filed a private complaint alleging commission of the offence under Section 498A I.P.C. The same was forwarded to the police under Section 156(3) Cr.P.C. Cognizance was taken on the basis of the final report filed by the police after due investigation. The matter is pending before the learned Magistrate as C.C. 54 of 2005.

2. The petitioners and the second respondent, who has now entered appearance through counsel, submitted before Court that all the disputes between the parties have been settled amicably and that the second respondent does not now want to prosecute the matter, the matter having been settled and the offence having been compounded by the second respondent. The averments in the petition show, the affidavit filed by the second respondent confirms and the

submissions made by the counsel for the rival contestants also confirm that there has been a harmonious settlement of the disputes between the parties.

3. The learned counsel for the second respondent vouches that the matter has been settled between the parties. I am satisfied that the matter has been settled voluntarily and amicably by the parties and the second respondent has compounded the offence allegedly committed by the petitioners. In these circumstances, I am satisfied that, if legally permissible, the composition can be accepted.

4. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section 320 Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied that this is a fit case where the composition can be accepted and the proceedings brought to premature termination on the basis of such settlement effected.

5. This Crl.M.C. is hence allowed. C.C. No. 54 of 2005 pending before the Judicial First Class Magistrate-III, Trivandrum, against all the petitioners/accused is hereby quashed.

(R. BASANT)
Judge

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